

§ 1952.252

- (a) Commencement of recruitment and staff training—September 10, 1973.
- (b) Effective date of implementing legislation—October 1, 1973.
- (c) Procedural and interpretative, regulations and standards to become effective—January 1, 1974.
- (d) Enforcement program to be operational—January 1, 1974.
- (e) Public employee program to be operational—July 15, 1974.
- (f) Program to be fully implemented—July 1, 1975.

[38 FR 24896, Sept. 11, 1973. Redesignated at 49 FR 16775, Apr. 20, 1984]

§ 1952.252 Completion of developmental steps and certification.

- (a) In accordance with §1952.253(b), amendments to the Virgin Island legislation were passed March 11, and February 26, 1974.
- (b) In accordance with §1952.253(c), the Virgin Islands occupational safety and health standards were promulgated on March 21, 1974.
- (c) In accordance with §1952.253(a) the Virgin Islands has completed the training as described therein.
- (d) The Virgin Islands has developed and implemented a manual Management Information System.
- (e) In accordance with the requirements of §1952.10 the Virgin Islands safety and health posters for private and public employees were approved by the Assistant Secretary on September 28, 1976.
- (f) The Virgin Islands has developed and implemented an effective Public Information Program.
- (g) The Virgin Islands amended its legislation to:
 - (i) Delete reference to “political subdivisions” and substitute the term “department,” and
 - (ii) To add new sections:
 - (1) “Variations, Tolerances and Exemptions,” and
 - (2) “Disclosure of Confidential Trade Secrets.”
- (h) The Virgin Islands’ Field Operations Manual (FOM) modeled after the Federal FOM has been developed by the State, and approved by the Assistant Secretary.
 - (i) The Virgin Islands has developed:
 - (1) An acceptable organizational chart;

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- (2) Job descriptions for V.I. occupational safety and health employees which meet the necessary requirements;
- (3) A procedure to correct a problem of understaffing in the V.I. in terms of plan commitment;
- (4) A procedure for rating and ranking candidates; and
- (5) An Affirmative Action Plan for Equal Employment Opportunity acceptable to CSC.
- (j) In accordance with §1952.253(e), the Virgin Islands implemented the public employee program in July 1975.
- (k) In accordance with §1952.253(c), the Virgin Islands adopted the Administrative Regulations on March 11, 1974.
- (l) In accordance with §1952.253(d), the safety enforcement program in the Virgin Islands was operation in April 1974.

The supplement was approved by the Assistant Secretary on August 3, 1981.

- (m) In accordance with §1902.34 of this chapter, the Virgin Islands’ occupational safety and health plan was certified effective September 22, 1981 as having completed all developmental steps specified in the plan as approved on September 11, 1973, on or before August 31, 1976.

This certification attests to structural completion, but does not render judgment on adequacy of performance.

[40 FR 11352, Mar. 11, 1975, as amended at 41 FR 43406, Oct. 1, 1976; 42 FR 40195, Aug. 9, 1977; 44 FR 76783, Dec. 28, 1979; 45 FR 56054, Aug. 22, 1980; 46 FR 41046, Aug. 14, 1981; 46 FR 46808, Sept. 22, 1981. Redesignated at 49 FR 16775, Apr. 20, 1984]

§ 1952.253 Final approval determination.

- (a) In accordance with section 18(e) of the Act and procedures in 29 CFR part 1902, and after a determination that the State met the “fully effective” compliance staffing benchmarks established in response to a Court Order in *AFL-CIO v. Marshall* (CA 74-406), and was satisfactorily providing reports to OSHA through participation in the Federal/State Unified Management Information System, the Assistant Secretary evaluated actual operations under the Virgin Islands State plan for a period of at least one year following

certification of completion of developmental steps (Sept. 21, 1981, 46 FR 46807). Based on the Evaluation Report for FY 1982 and available FY 1983 data and after opportunity for public comment and an informal public hearing held on June 29, 1983, in St. Thomas, Virgin Islands, the Assistant Secretary determined that in actual operations, the Virgin Islands State plan is at least as effective as the Federal program in providing safe and healthful employment and places of employment and meets the criteria for final State plan approval in section 18(e) of the Act and implementing regulations at 29 CFR part 1902. Accordingly, the Virgin Islands plan was granted final approval and concurrent Federal enforcement authority was relinquished under section 18(e) of the Act effective April 17, 1984. *Note:* The Virgin Islands final approval status under section 18(e) of the Act was suspended and Federal concurrent enforcement authority reinstated on November 13, 1995.

(b) Except as otherwise noted, the plan which has received final approval covers all activities of employers and all places of employment in the Virgin Islands. The plan does not cover private sector maritime employment; Federal government employers and employees; the U.S. Postal Service (USPS), including USPS employees, and contract employees and contractor-operated facilities engaged in USPS mail operations; the enforcement of the field sanitation standard, 29 CFR 1928.110, and the enforcement of the temporary labor camps standard, 29 CFR 1910.142, with respect to any agricultural establishment where employees are engaged in "agricultural employment" within the meaning of the Migrant and Seasonal Agricultural Worker Protection Act, 29 U.S.C. 1802(3), regardless of the number of employees, including employees engaged in hand packing of produce into containers, whether done on the ground, on a moving machine, or in a temporary packing shed, except that the Virgin Islands retains enforcement responsibility over agricultural temporary labor camps for employees engaged in egg, poultry, or red meat production, or the post-harvest processing

of agricultural or horticultural commodities.

NOTE: The Virgin Islands' final approval status under section 18(e) of the Act was suspended and full Federal concurrent enforcement authority reinstated on November 13, 1995.

(c) The Virgin Islands is required to maintain a State program which is at least as effective as operations under the Federal program; to submit plan supplements in accordance with 29 CFR part 1953; to allocate sufficient safety and health enforcement staff to meet the benchmarks for State staffing established by the U.S. Department of Labor, or any revision to those benchmarks; and, to furnish such reports in such form as the Assistant Secretary may from time to time require.

(d) As a result of Federal monitoring of the U.S. Virgin Islands State Plan and after opportunity for public comment, the Assistant Secretary for Occupational Safety and Health has determined that the State Plan no longer meets the criteria for final approval under section 18(e). As a result the final approval status has been suspended and the State Plan reverts to "initial approval" status effective November 13, 1995. Concurrent Federal enforcement authority over occupational safety issues in the U.S. Virgin Islands has been reinstituted pending the necessary corrective action by the State Plan to again meet the criteria for an 18(e) final approval determination. Concurrent Federal enforcement authority will be exercised in the U.S. Virgin Islands effective November 13, 1995, and will continue until further notice.

[49 FR 16775, Apr. 20, 1984, as amended at 60 FR 56951, Nov. 13, 1995; 62 FR 2563, Jan. 17, 1997; 65 FR 36625, June 9, 2000]

§ 1952.254 Level of Federal enforcement.

(a) As a result of the Assistant Secretary's determination to suspend the final approval determination under section 18(e) for the Virgin Islands state plan, effective November 13, 1995, Federal occupational safety standards which have been promulgated under section 6 of the Act now apply to all covered employers in the Virgin Islands. Until subsequent determinations